

1 than the ones you've just identified, those programs were
2 furnished to the station by the entities indicated. Is that
3 correct?

4 A Yes, that is correct.

5 Q Now if you'll, if you'll turn to your exhibit, Roman
6 numeral -- page 2, Roman numeral VIII with respect to
7 Pittsburgh Opinion.

8 A Yes.

9 Q Now you indicate in there that there were 68 one-
10 minute segments of that for broadcast. Was that the case
11 throughout the renewal period?

12 A Yes.

13 (Off the record. Back on the record.)

14 MR. BERFIELD: I have an exhibit, Your Honor, to
15 distribute.

16 (Pause.)

17 MR. BERFIELD: I'll just describe it briefly, and
18 then I'll have some questions for the witness if I may. Like
19 to have marked as Allegheny Exhibit 23 a one-page document
20 that's on B-94 FM memorandum letterhead. Carries the date of
21 November 15th, 1989.

22 (Whereupon, the document referred to
23 as Allegheny Exhibit No. 23 was
24 marked for identification.)

25 BY MR. BERFIELD:

1 Q And I'll ask the witness, this memorandum is
2 addressed to a Doug McGuire. Do you know who Mr. McGuire is
3 or was as of November, '89?

4 A Yes, I do.

5 Q And who was, who was --

6 A He was the original program director.

7 Q For --

8 A EZ Communications.

9 Q Okay. And the memorandum is from a Clark Ingram.
10 Who is Clark Ingram?

11 A Clark Ingram was the program director on 11/15/89.

12 Q At your station.

13 A At WBZZ.

14 Q Yeah. And look, look down -- this is a -- what is
15 the purpose of this memorandum? Do you recognize this
16 memorandum?

17 A Yes, I do.

18 Q And what is it?

19 A It's a memorandum in regards to non-entertainment
20 features that run on the radio station, probably part of the,
21 the quarterly audit.

22 Q And --

23 A Or in regards to the quarterly audit that the
24 program director would do.

25 Q And down at the bottom it indicates that you

1 received a carbon copy. Was that correct?

2 A Yes.

3 Q That's standard procedure?

4 A Yes.

5 Q Now if you'll notice in there with reference to
6 Pittsburgh Opinion, the memorandum here indicates that it only
7 ran 32 times a week. Do you see that --

8 A Yes, that's incorrect.

9 Q -- report?

10 A That's incorrect.

11 Q That's incorrect?

12 A Um-hum.

13 Q How do you know it's incorrect?

14 A Because I can add up in my head when it runs.

15 What's not included here is that it also airs all night, and
16 it runs four times a day on the radio station. Which is 20
17 times Monday through Friday and morning drive plus an
18 additional 30 -- excuse me, 35 times all night where it's
19 repeated.

20 Q Do you recall seeing this report in 1989?

21 A Yes, I do.

22 Q Do you recall any, any question in your mind at that
23 time as to whether it was accurate in terms of Pittsburgh
24 Opinion?

25 A Yes, because I'm the person that got him to do this.

1 And I recall it very well. In checking the quarterly audits,
2 I wanted to make sure that we were running what we committed
3 to run.

4 Q Well, explain. I'm not quite sure what you mean.
5 When, when was the quarterly audit? This referred to a
6 quarterly audit?

7 A Let me explain something. As a check system with
8 the radio station, I constantly have conversations with the
9 program director about public affairs programming and running
10 newscasts, all these things that are listed here, PSAs. And
11 this was a memo from the program director to Doug McGuire in
12 regards to this.

13 Q Yes.

14 A But this is not correct under Pittsburgh's Opinion,
15 because he left off the all night show. And one of the times
16 in the morning.

17 Q Well --

18 A We have logs to verify that.

19 Q Do you recall pointing this out to him at the time,
20 or do you recall any discussion about it whether it was an
21 accurate report or not?

22 A Yeah, I recall this very well. Because Clark Ingram
23 is a person that did not come to work for a period of 2 weeks.
24 And I had to terminate him. And he was not very accurate as
25 far as his, his paperwork. And this is what -- this is an

1 example of it.

2 Q And --

3 (Pause.)

4 Q Do you recall whether or not this memorandum that
5 went to Mr. McGuire was ever corrected in writing?

6 A I don't know if it was corrected in writing. It was
7 corrected verbally. And the program director as I said was
8 terminated.

9 Q Are you saying he was terminated as a result of
10 this, this memorandum?

11 A It's one of the many things, yes.

12 Q Well, do you recall when he was terminated?

13 A Not the exact date, no. Shortly after this.

14 Q Well --

15 A He was only at the station less than 6 months.

16 Q Well, after, after this, do you recall -- this
17 November 15th, '89, did you have any -- do you recall whether
18 you had any discussion with Mr. Ingram concerning the accuracy
19 of his Pittsburgh Opinion count?

20 A I'm sure I did. I can't remember the specific
21 conversation.

22 (Pause.)

23 MR. BERFIELD: I have another exhibit I'd like to
24 circulate, Your Honor.

25 (Asides.)

1 MR. BERFIELD: Your Honor, I'd like to have
2 identified as Allegheny Exhibit 24 a two-page document.
3 Incidentally, all these documents were furnished us in
4 discovery. Again it's in format similar if not identical to
5 Allegheny Exhibit 23 but carries the date of 1/30/89.

6 (Whereupon, the document referred to
7 as Allegheny Exhibit No. 24 was
8 marked for identification.)

9 BY MR. BERFIELD:

10 Q And I'll ask Mr. Meyer, are you familiar with this
11 memorandum, the 1/30/89 memorandum? This again is to Mr.
12 McClure from Clark Ingram.

13 A McGuire.

14 Q Mr. McGuire, yeah.

15 A Sorry about that.

16 Q And as far as the Pittsburgh Opinion, Mr. Ingram is
17 again saying 32 minutes a week, is he not?

18 A I don't know. I can't read that. It looks like 52
19 to me, but he's still leaving off the all night and the one
20 additional in morning drive.

21 Q Well, let's, let's look. He's talking about 3 in
22 the morning weekdays. That would be 3 Monday through Friday
23 would be 15, right?

24 A Right. But he's leaving that off --

25 Q And he's talking -- and then he's talking -- well,

1 first of all, let's try to analyze what Mr. Ingram was saying.

2 And then he's saying 17 on the weekends. Is that correct?

3 A Yes, that's what it says.

4 Q And that 15 and 17 would then be the 32, correct?

5 A That is correct.

6 Q And you're saying that he, he left them off again in
7 1989?

8 A I'm saying that he left the all night Pittsburgh
9 Opinion off, yes. And I'm saying he also left off one in
10 morning drive.

11 MR. MILLER: Your Honor, if I may I think counsel is
12 mischaracterizing this to some extent. In the first place,
13 the one that's marked 24 appears to dated 1/30/89. And the
14 one that's dated 23 also appears to be dated in November of
15 1989. So it's not as though the earlier one is again doing
16 anything. They, they seem to be backwards in sequence is, is
17 my point.

18 MR. BERFIELD: Okay.

19 MR. MILLER: I don't want the witness to be misled
20 by that.

21 MR. BERFIELD: No, I, I didn't mean to, I didn't
22 mean to mislead the witness in any way on that.

23 BY MR. BERFIELD:

24 Q These are the -- do you recall, do you recall any
25 other memoranda from Mr. Ingram in 1989 that were inaccurate?

1 A Not off the top of my head, no. What's interesting
2 about this is I think the dates are wrong on this also along
3 with the Pittsburgh Opinion. Because as I stated earlier, Mr.
4 Ingram was only with the station a period of 6 months and had
5 a terminal problem of not coming to work. So I question these
6 dates on here.

7 Q Well, do you have any recollection that you
8 questioned them at the time in 1989?

9 A No, I don't. But as I stated earlier, it's part of
10 the problem why he was terminated at the radio station.

11 MR. ZAUNER: Your Honor, is there a better copy of
12 this available, a copy from the machine --

13 MR. BERFIELD: I'm sorry. That's the, the best copy
14 I have from what was given me.

15 MR. MILLER: Your Honor, might I ask why I at least
16 have been given two copies of what appear to be identical
17 pages I have marked as Exhibit 24 for identification?

18 JUDGE LUTON: Same here.

19 MR. BERFIELD: Oh, it's -- I'm sorry, Your Honor. I
20 didn't --

21 MR. ZAUNER: Your Honor, that's what concerns me.
22 I'm not sure that they are duplicates. If you look at the
23 first page, it looks like the 1 is next to the slash making it
24 January 30th, '89. But if you look at the second page, it
25 looks like the 1 is to the other side of the line which may

1 mean a number was blanked out or something. I can't explain
2 it. I'm just pointing it out.

3 MR. BERFIELD: Do you have any explanation for that,
4 Mr. Meyer?

5 WITNESS: No, I don't. I did not make the copies of
6 this so.

7 MR. ZAUNER: That's why I was asking if they had a
8 better copy.

9 WITNESS: One is marked also revision --

10 JUDGE LUTON: Hold it. Wait until you get question
11 and response. You're going to need to --

12 MR. BERFIELD: Well, let me ask a question or two if
13 I may, Your Honor.

14 JUDGE LUTON: All right. Go ahead.

15 BY MR. BERFIELD:

16 Q Okay. In comparing the two pages that, on the
17 Allegheny Exhibit 24, are there, are there any differences in
18 those two pages that you can see, Mr. Meyer?

19 A You're talking about the ones that are stapled
20 together --

21 Q Yes. I mean --

22 A Well, first of all, the one copy is marked revision
23 and circled. And the second copy is not marked and there's
24 no, there's no revision mark.

25 Q Okay. But other than that, do you discern any, any

1 difference in the material or the numbers or the text of it?

2 MR. MILLER: Your Honor, I submit that's an unfair
3 question. At least on my copy the numbers are basically
4 illegible. And to ask this witness to try to decipher
5 illegible numbers and tell whether they're different, A, it's
6 something that any of us can do. And B, it's impossible.
7 Each of us can do it as well as Mr. Meyer can.

8 MR. BERFIELD: Well, I, I would agree on that. I
9 just thought since Mr. Meyer was more, perhaps more conversant
10 at one time this memorandum than the rest of us that he might
11 be able to add some enlightenment on it.

12 It appears, does it not, that Mr. Ingram came up
13 with the same bottom line result of 9 hours and 34 minutes on
14 both of these pages for your non-entertainment programming?

15 WITNESS: Yes, it does.

16 JUDGE LUTON: Well, Mr. Meyer, you referred to the
17 REV, R-E-V on the first page there as being revision. What
18 makes you call that revision? Why do you conclude that R-E-V
19 is intended to mean revision?

20 WITNESS: I probably shouldn't conclude that. Just
21 when I see that that's what it struck me as.

22 MR. BERFIELD: Okay. Well, I -- thank you, Mr.
23 Meyer.

24 (Pause.)

25 MR. BERFIELD: Remain --

1 (Pause.)

2 BY MR. BERFIELD:

3 Q Now as I understand it earlier, in your exhibit you
4 indicate that whatever these memoranda might say that your
5 Pittsburgh Opinion was 68 minutes per week. Is that correct?

6 A Correct.

7 Q And could you tell me the times again?

8 A Yes, sir. Monday through Friday. And this will be
9 within 2 minutes, 5:30 a.m., 6:30 a.m., 7:30 a.m., 8:30 a.m.
10 Monday through Sunday it runs between 12 and 1 a.m., 1 and
11 2 a.m., 2 and 3 a.m., 3 and 4 a.m., 4 and 5 a.m.

12 Q And when you, when you gave those times you meant
13 one, one segment each time?

14 A Yes. We run one segment of Pittsburgh Opinion each
15 time at those time periods.

16 Q One 1-minute segment.

17 A Correct.

18 Q And when you're talking about between your Monday-
19 Sunday schedule that you gave me between 12 and 1, that would
20 be one Pittsburgh Opinion between 12 and 1?

21 A Yes. It doesn't run at the same time it does in
22 morning drive. It runs during the 12 midnight to 1 o'clock
23 hour between the 1 o'clock and the 2 o'clock hour. And then
24 our weekend schedule which runs Sunday morning, 6 to 7 a.m., 7
25 to 8, 8 to 9, 9 to 10, 10 to 11 and 11 to 12. And those run

1 it's either on the bottom of the hour or the top of the hour
2 between the public affairs shows.

3 Q And it's your calculation that those would add up to
4 68 different segments. Is that correct?

5 A Right. We also ran them on Saturday morning.
6 Excuse me. Left that out.

7 Q Saturday morning on what schedule?

8 A Six to seven, seven to eight, eight to nine, nine to
9 ten. Ended at ten.

10 (Pause.)

11 MR. BERFIELD: Now -- just a minute, Your Honor.

12 (Pause.)

13 BY MR. BERFIELD:

14 Q Now I wonder if you would look again at these
15 Allegheny Exhibits. First at Allegheny Exhibit 23, 11/59/89
16 memorandum from Clark Ingram.

17 A 1/15/89?

18 Q Yes.

19 A Yeah.

20 Q Okay. Apart from the reference there to Pittsburgh
21 Opinion which you discussed, are there any other errors or
22 mistakes in this report?

23 A Yes.

24 Q Could you explain what those were?

25 A Yes. On the morning newscast, it's 3 minutes, not 2

1 minutes. On both the top and the bottom of the hour. There
2 is no difference.

3 Q Well, in the morning newscast there's a 60-second
4 update three times a week, 5 days a week. Is that correct?

5 A No, it's not.

6 Q What, what should be there for the morning newscast?

7 A Three minutes.

8 Q And what, what was the schedule of those newscasts
9 if you know?

10 A Yes, sir. 5:30 a.m. Once again let me, let me
11 restate that. I'm sorry. 5:27 a.m.

12 Q And, and we're talking now Monday through Friday?

13 A Monday through Friday.

14 Q Okay.

15 A 5:57 a.m., 6:27 a.m., 6:57 a.m., 7:27 a.m. and for
16 the license renewal period 8:57 a.m. We have since dropped
17 the 8:57 a.m.

18 Q Well, we're just on your license renewal period.

19 A Right.

20 Q Okay.

21 A Plus that's Monday through Friday.

22 Q And each of those you're, you're saying throughout
23 the license renewal period were 3-minute newscasts?

24 A Yes, that is correct.

25 Q And is that 3-minute, does that include any

1 commercial time?

2 A No, we don't run commercials in the newscast.

3 Q Does that include weather?

4 A No, it does not.

5 Q Okay, go ahead. Now you've given me your schedule
6 up until 9 o'clock in the morning on Monday through Friday.
7 Now if you can continue.

8 A Then all night we're on beginning at 12:57, 1:57,
9 2:57, 3:57, 4:57.

10 Q And those, those are a.m. times you just gave me.

11 A Yes, sir, they are.

12 Q And then it's correct then, is it not, that during
13 the license renewal time in terms of regularly scheduled
14 newscasts there were none between 9 o'clock in the morning and
15 almost 1 o'clock in the morning.

16 A Regularly scheduled?

17 Q Yeah.

18 A Yes, correct.

19 (Pause.)

20 Q And who prepared now speaking of your morning
21 newscast Monday through Friday, not the person's name but the
22 position, who prepared those newscasts?

23 A The news director.

24 Q Did the news director have any staff during the
25 license renewal period, any full-time staff?

1 A Full-time staff, no. Part-time staff.

2 Q And with respect to your regularly scheduled
3 newscasts that began at 12:57 a.m., during the license renewal
4 period who prepared those?

5 A News director. They were recorded late in the
6 afternoon, early in the evening. And they were pre-recorded,
7 played back all night.

8 Q And then what was your news schedule on the
9 weekends, on Saturdays and Sundays?

10 A The all-night would be the same. And we didn't run
11 newscasts Saturday morning or on Sunday morning.

12 (Pause.)

13 Q Now you indicate in your exhibit that there was a
14 certain amount of weather programming carried. Is that
15 correct? You'll notice on page 2, the introductory material,
16 page 2, Roman numeral III, the last part of that paragraph on
17 Roman numeral III, page 2.

18 A Which paragraph are you? I'm sorry?

19 Q Well, the last sentence --

20 A Four hours and 12 minutes --

21 Q Yes.

22 A -- the news and weather each --

23 Q Yes.

24 A -- for a total of 1,529 hours?

25 Q Right, right. Now of the 4 hours and 12 minutes

1 that you're referring to there, do you know how much of that
2 would be weather?

3 A No, I'd have to break it down with a calculator.

4 Q Well, did you have a regular schedule for weather
5 broadcasts --

6 A Yes. It's on, it's on the log for every hour in the
7 morning drive, it's on the log twice --

8 Q I beg your pardon? I didn't get the last part of
9 your answer.

10 A I said on morning drive it's on the log at least
11 twice an hour.

12 Q And how long are those segments? Or do you know?

13 A It varies. We have a television weatherman that
14 does our weather on the top of the hour, on the bottom of the
15 hour following the newscast. And it usually exceeds 60
16 seconds. Depends on how gabby he wants to get for the
17 weather.

18 Q During the renewal period, did WBZZ subscribe to any
19 news network?

20 A News service?

21 Q News service?

22 A Yes, we did.

23 Q Which one was that?

24 A Associated Press and for a short time UPI.

25 Q Did you -- during the renewal period did the station

1 subscribe -- was that the only one the station subscribed to
2 during the renewal period?

3 A Yes, yes.

4 Q In other words --

5 A Both of those.

6 Q And during the renewal period, WBZZ had no network
7 programming, did they?

8 A No, we did not. I assume you're talking ABC, NBC,
9 CBS.

10 Q Yes.

11 A No, we did not.

12 Q And you did not subscribe during the renewal period
13 to any kind of state or regional news network.

14 A No, we did not.

15 (Pause.)

16 Q When you arrived at the station in March of 1984 and
17 then beginning with the renewal period later on that summer,
18 were these Sunday morning non-entertainment programs being
19 broadcast between 4 and 8 a.m.?

20 A I believe they were. They changed over the years
21 which ones were broadcast and they're documented here. But
22 yes, that time period --

23 Q Is it fair to say that while the particular
24 programming may have changed, the time slot, 4 to 8 a.m.
25 Sunday, was constant throughout the renewal period?

1 A It may have changed slightly. It could have been --
2 I'm thinking that it could have been until 7 o'clock in the
3 mid-'80s, '84, '85, and we changed it to 7 to 8 as the cutoff.

4 Q During the license renewal period, did you ever have
5 any discussion with your program director concerning the
6 desirability of scheduling these programs between 4 and 8 a.m.
7 on Sunday morning?

8 A I'm sure I probably did.

9 Q Well, do you recall any such specific conversation?

10 A Not specific conversations, no. But those are
11 things you talk about on a day-to-day basis.

12 Q Was there any -- to your understanding during the
13 license renewal period, was there any corporate policy from EZ
14 as to the scheduling of these Sunday morning programs?

15 A Yeah, I'm going to say that specifically to run the
16 locally produced show at the best time available for your
17 programming needs on Sunday morning and to hit that 6 percent
18 of non-entertainment programming.

19 Q What 6 percent are you referring to?

20 A I'm referring to what directive came down from EZ
21 from a standpoint of what would non-entertainment programming
22 be during those years. And it was 6 percent. There were
23 memos on it.

24 Q In other words, it was corporate policy that you
25 were to do 6 percent non-entertainment programming. Is that

1 correct?

2 A There was a directive on it. I, I don't know if I'd
3 strictly say it was corporate policy. I don't think anybody
4 ever argued with it.

5 Q Well, was it corporate policy to run the locally
6 produced public -- incidentally, the locally produced public
7 programming you're referring to was called dialogue?

8 A Yes.

9 Q It was called dialogue throughout the renewal
10 period?

11 A I'm not sure of that. I think it may have changed
12 later. Could have changed around '86 to dialogue. I, I think
13 that was one of the news directors' ideas. But the rest of
14 your question you said it was corporate policy to run that
15 program from 7 to 8 in the morning?

16 Q On Sunday, yes.

17 A No, that was not the corporate policy.

18 Q Well, was there any corporate policy with respect to
19 when dialogue should run?

20 A No. That -- the policy was that the locally
21 produced show was to run at a decent hour.

22 Q Was that the directive that it was to run at a
23 decent hour, and they left it up to you? Or was there a -- or
24 do you recall?

25 A I don't recall something specifically saying that

1 you had to run your locally produced show at 7 to 8 in the
2 morning on Sunday morning. I, I don't recall ever saying
3 anything like that. There were discussions on it.

4 (Pause.)

5 MR. BERFIELD: I have an exhibit I'd like to
6 distribute. And there's some copies to the reporter.

7 (Pause.)

8 MR. BERFIELD: What I've distributed and I'd like to
9 have marked for identification is Allegheny Exhibit 25 is a
10 one-page document. It's a memorandum to various individuals
11 including a Clark Ingram. And it's from Doug McGuire.

12 (Whereupon, the document referred to
13 as Allegheny Exhibit No. 25 was
14 marked for identification.)

15 BY MR. BERFIELD:

16 Q And I'll ask Mr. Meyer, Mr. Meyer, do you recognize
17 the form of this memorandum?

18 A Yes, I do.

19 Q And what, what is this memorandum?

20 A It's a memorandum to the program directors of EZ
21 Communication Station from Doug McGuire with a carbon copy to
22 Alan Box and Gary Brobst sent by electronic mail.

23 Q And would you look at the third paragraph? And I
24 apologize for the copying, but this is the, the form in which
25 it was, it was produced to us. Do you see the third paragraph

1 | there with the reference to the 6 percent rule?

2 | A Yes, I do.

3 | Q Is that, is that 6 percent rule, is that the company
4 | guideline that you've just been referring to in your
5 | testimony?

6 | A Yes, it is.

7 | Q Okay. And do you see also there a reference to
8 | company policy that the station produced local public affairs
9 | run for at least 30 minutes between 7 and 8 a.m. on Sundays?

10 | A Yes, and that's where we were running it.

11 | Q Okay. But does that refresh your recollection as to
12 | whether it was an EZ or company policy as to the scheduling of
13 | the local public affairs programs?

14 | A Yes, it does --

15 | MR. ZAUNER: I'm going to object, Your Honor. This
16 | line of examination seems to me to be irrelevant. Regardless
17 | of whether or not it was a company policy, the fact is the
18 | station did what it did, programmed the programs that it
19 | programmed and found this one on that record. I don't know
20 | what use we can make of this in our findings and conclusions.

21 | MR. BERFIELD: Well, I think there's some, some
22 | question as to whether we have localism here or whether we
23 | just have a company policy that's set down somewhere that
24 | applies whether you're in Seattle or St. Louis or Pittsburgh.

25 | JUDGE LUTON: What difference does it make?

1 MR. BERFIELD: Well, as I say, I think it undercuts
2 any -- we had some questions as to whether it was a company
3 policy or not. And this witness was not sure or didn't
4 recall. And this is to refresh his recollection.

5 JUDGE LUTON: But so what? I mean we had those
6 discussions, but the fact that we had the discussions, maybe
7 we should have some more discussion about it.

8 MR. BERFIELD: No -- well, I'm asking if this
9 refreshes his recollection as to whether it was a company
10 policy.

11 JUDGE LUTON: Suppose it does? Or suppose it
12 doesn't?

13 MR. BERFIELD: Well --

14 JUDGE LUTON: Sustained.

15 MR. BERFIELD: Your Honor, I think I'm nearly at the
16 end of this. But I wonder if we could have a short break now?
17 I'd like to review my notes. I might be able to conclude this
18 area and move on to a different one. But I'd like an
19 opportunity -- there's a huge mass of material here. I wonder
20 if I might have 10 minutes or 15 minutes to do that?

21 JUDGE LUTON: Ten or fifteen? Which do you want?

22 MR. BERFIELD: Fifteen, Your Honor.

23 JUDGE LUTON: All right. Let's recess for 15
24 minutes.

25 MR. BERFIELD: Thank you.

1 MR. ZAUNER: Your Honor, could you tell us what time
2 we'll be breaking?

3 JUDGE LUTON: Four o'clock.

4 MR. ZAUNER: Four o'clock. Thank you.

5 (Off the record at 2:20 p.m. Back on the record at
6 2:35 p.m.)

7 MR. BERFIELD: Thank you, Your Honor. I'd like to
8 move into evidence at this time Allegheny Exhibit 23 and 24.
9 In view of your ruling, I'm not going to offer 25.

10 MR. MILLER: Your Honor, I would --

11 JUDGE LUTON: I'm sorry. Go ahead.

12 MR. MILLER: I would object particularly to 24,
13 since I really don't know what it is. The date is ambiguous.
14 It's either January or November or something else. Most of
15 the numbers are not legible on it. The witness has testified
16 that the numbers that are legible are wrong. We don't have
17 Mr. Ingram here. We don't have Mr. McGuire to testify about
18 it. I don't, I don't see what, what the thing is probative
19 of.

20 MR. BERFIELD: Well, I agree it's inconsistent with
21 his testimony. But I don't think that's a grounds for
22 excluding it.

23 JUDGE LUTON: I agree.

24 MR. MILLER: That was not my only objection.

25 JUDGE LUTON: One was that it's not entirely

1 legible. Other one was that Mr. Ingram isn't here.

2 MR. MILLER: And we don't know the date. This is
3 either early 1989 or late 1989 maybe.

4 JUDGE LUTON: Well, I --

5 MR. MILLER: --

6 JUDGE LUTON: Well, why does the offering consist of
7 two pages anyway? Where did you get this from?

8 MR. BERFIELD: These, these are all documents
9 supplied us in discovery, Your Honor. Well, let's look first
10 of all at Allegheny Exhibit 23. I don't think it's subject to
11 the infirmities of -- I mean the date is rather clear on 23.
12 And, and so I think in terms of those arguments, 23 is, is
13 quite, quite a usable document in that, in that sense.

14 MR. MILLER: Yeah, I, I have --

15 JUDGE LUTON: I thought the, the -- you made your
16 objections to 24 as I understood it.

17 MR. MILLER: As to the legibility.

18 JUDGE LUTON: Yeah.

19 MR. MILLER: Yes.

20 JUDGE LUTON: Twenty-four --

21 MR. BERFIELD: That, that --

22 JUDGE LUTON: -- we're talking about.

23 MR. BERFIELD: Okay. So that there's no objection
24 to 23? Is that --

25 JUDGE LUTON: I don't think they can say that

1 | either. We're just doing 24 first.

2 | MR. BERFIELD: Okay.

3 | JUDGE LUTON: How's that? Mr. Ingram isn't here.

4 | So? The witness has spoke knowledgeably about what this
5 | document purports to state. The witness has indicated that in
6 | his opinion the document imparts some incorrect information.
7 | That's not an evidentiary thing. That's so what?

8 | MR. MILLER: Your Honor, I'll, I'll withdraw the
9 | objection.

10 | JUDGE LUTON: I, I just don't --

11 | MR. MILLER: I'll withdraw the objection.

12 | JUDGE LUTON: -- see any real solid evidentiary
13 | objections there. That's 24. Twenty-three, what do we have
14 | here? Objections here?

15 | MR. MILLER: I withdraw the objection to that one as
16 | well, Your Honor.

17 | JUDGE LUTON: All right, 23, 24 are received.
18 | Twenty-five is not offered. Twenty-five is -- it will remain
19 | for identification but --

20 | (Whereupon, the documents referred to
21 | as Allegheny Exhibits Nos. 23 and 24
22 | were received into evidence.)

23 | MR. BERFIELD: Thank you, Your Honor.

24 | JUDGE LUTON: -- without having been offered.

25 | MR. BERFIELD: Your Honor, I just have one small